

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maryann Wong	Team: Team # 2	CCRB Case #: 200906572	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 04/24/2009 5:30 PM	Location of Incident: Knickerbocker Avenue and Dekalb Avenue	Precinct: 83	18 Mo. SOL 10/24/2010	EO SOL 10/24/2010	
Date/Time CV Reported Fri, 04/24/2009 7:47 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/29/2009 2:48 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Terrell Anderson	00478	933551	083 PCT
2. POM Ashley Breton	23105	938114	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Terrell Anderson	Force: Sergeant Terrell Anderson used physical force against § 87(2)(b)	
B.POM Ashley Breton	Force: Officer Ashley Breton used physical force against § 87(2)(b)	
C.SGT Terrell Anderson	Force: Sergeant Terrell Anderson tightly handcuffed § 87(2)(b)	
D.POM Ashley Breton	Force: Officer Ashley Breton tightly handcuffed § 87(2)(b)	
E.SGT Terrell Anderson	Discourtesy: Sergeant Terrell Anderson spoke obscenely to § 87(2)(b)	

Synopsis

On April 24, 2009 § 87(2)(b) filed a complaint with IAB, log, #09-19750. § 87(2)(b) did not witness the incident. On April 29, 2009, IAB referred the complaint to the CCRB.

On April 24, 2009, at 5:30pm, § 87(2)(b) (age § 87(2)(b)) and § 87(2)(b) (age § 87(2)(b)) were physically fighting. Sergeant Tyrell Anderson and Officer Ashley Breton responded to the scene and allegedly grabbed § 87(2)(b) and pushed him against a steel fence three or four times (Allegations A and B). Then Sergeant Anderson and Officer Breton allegedly handcuffed § 87(2)(b) so tightly that he received a scar and subsequently had to get stitches (Allegations C and D). At the precinct, § 87(2)(b)'s father, § 87(2)(b) spoke with Sergeant Anderson about what had happened to his son. Sergeant Anderson allegedly called him a "fucking criminal."

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

On April 24, 2009 § 87(2)(b) filed a complaint with IAB (encl. 3A-D). § 87(2)(b)'s statement was solely based on information provided by her son § 87(2)(b). On May 15, 2009, § 87(2)(b) was interviewed at the CCRB (encl. 4A-D). § 87(2)(b) is a Hispanic male, 5'11" tall and age § 87(2)(b). § 87(2)(b)'s parents, § 87(2)(b) and § 87(2)(b) gave the CCRB permission to interview § 87(2)(b) and were both present during his interview.

On April 24, 2009, at 5:30pm, § 87(2)(b) was walking southbound on Knickerbocker Avenue, near Dekalb Avenue, in Brooklyn. § 87(2)(b) was with his girlfriend, § 87(2)(b) (age § 87(2)(b)) and her cousin § 87(2)(b) (age § 87(2)(b)). § 87(2)(b) (age § 87(2)(b)) who is § 87(2)(b)'s ex-boyfriend and § 87(2)(b)'s ex-friend, came up behind § 87(2)(b) and punched him in the back of his head. § 87(2)(b) was upset that § 87(2)(b) was dating § 87(2)(b). § 87(2)(b) and § 87(2)(b) started fighting. Neither man had anything sharp on his person. § 87(2)(b) and § 87(2)(b) fought each other for about five minutes, which consisted of punching and grabbing. Sergeant Tyrell Anderson and Officer Ashley Breton came out of Tony's pizzeria, which is located near the intersection of Knickerbocker Avenue and Dekalb Avenue. § 87(2)(b) described Sergeant Anderson as a black male, 5'11" tall, 200 lbs, age 30-35, in uniform with a gold badge. § 87(2)(b)'s parents, § 87(2)(b) and § 87(2)(b) obtained Sergeant Anderson's name at the precinct. Officer Breton was described as a black male, 5'8" tall, age 28, with a small mustache and beard and in uniform with a silver badge. The officers approached § 87(2)(b) when § 87(2)(b) was holding § 87(2)(b) in a headlock and § 87(2)(b) was biting the right side of § 87(2)(b)'s chest. At this point, the only injury on § 87(2)(b) was the bitten chest – he was not bleeding in any other area. § 87(2)(b) did not know if § 87(2)(b) had any injuries on him. When § 87(2)(b) saw the officers, he stopped holding § 87(2)(b) and put his hands up.

Sergeant Anderson and Officer Breton put their hands on the back of § 87(2)(b)'s head and on § 87(2)(b)'s back. § 87(2)(b) did not know which officer did what) and pushed him into the steel gate that was up because of construction. The officers pushed § 87(2)(b) into the gate three or four times. § 87(2)(b)'s body was slightly turned to the left and the left side of § 87(2)(b)'s face and body were slammed against the gate. § 87(2)(b) did not resist. § 87(2)(b) told the officers that they were violating him. A crowd of about 50 people formed. After about two minutes, the officers stopped pushing him. § 87(2)(b) did not

know why the officers stopped hitting him, but he assumed it was because they were tired. The officers handcuffed § 87(2)(b) and walked him to the car. § 87(2)(b)'s demeanor was extremely upset and he told the officers that they were violating him. He called Sergeant Anderson an "asshole" for hurting him. Sergeant Anderson told him that he could make a complaint. § 87(2)(b) did not get arrested, but he walked to precinct after the incident to speak with the officers. § 87(2)(b) did not know what they discussed.

§ 87(2)(b) had scratches on the left side of his arm and his left knee was swollen as a result of the officers slamming him against the gate. In addition, the top left side of § 87(2)(b)'s right wrist was bleeding and he had numerous rings around his wrist where the handcuffs had been. § 87(2)(b) was not grabbed by the officers by the handcuffs or wrist area at any time, so § 87(2)(b) believed the wrist injuries were due to his handcuffs being too tight. § 87(2)(b) remembered that the handcuffs were pinching him on the top, right side of his wrist. § 87(2)(b) never tried to take his handcuffs off. § 87(2)(b) also had a scratch on his neck from his necklace falling off, but this was not due to the officers. He also had a bite mark on his chest from § 87(2)(b). § 87(2)(b) did not ask to be taken to the hospital.

At the precinct, Officer Breton took § 87(2)(b)'s right wrist handcuff off (after about 20 minutes of being on) and looked surprised when he saw the blood on his handcuffs and on § 87(2)(b)'s right wrist. Officer Breton handcuffed § 87(2)(b)'s left arm to the bench. After three or four hours, § 87(2)(b) was released with a desk appearance ticket for assault and resisting arrest. Around 11:00pm, § 87(2)(b) went to § 87(2)(b). The doctor took X-rays of § 87(2)(b)'s knee and determined that it was not fractured. § 87(2)(b) was given antibiotics for the bite on his chest. § 87(2)(b) also received three stitches for the cut on his right wrist.

Photographs (encl. 10A-B)

On April 24, 2009, around 9:30pm, § 87(2)(b) took pictures of § 87(2)(b)'s injuries. Picture #1 shows § 87(2)(b)'s right wrist which sustained a one-inch cut on the left side of his wrist and lacerations about one-inch wide. Picture #2 shows a bruise on § 87(2)(b)'s left cheek.

§ 87(2)(b)

On May 15, 2009, § 87(2)(b) was interviewed at the CCRB (encl. 5A-C). § 87(2)(b) is a Hispanic male, 5'11" tall, age § 87(2)(b) with brown eyes.

On April 24, 2009, at 6:00pm, § 87(2)(b) went to the 83rd Precinct with his wife, § 87(2)(b) to get information about his son, § 87(2)(b) who had been arrested a half an hour earlier for assault. § 87(2)(b) asked to speak to the sergeant who arrested § 87(2)(b). Sergeant Tyrell Anderson came out and told § 87(2)(b) that he could not see his son at this time. Sergeant Anderson kept directing his questions and answers towards § 87(2)(b)'s wife. § 87(2)(b) who had a calm demeanor, asked Sergeant Anderson why he kept bypassing him to speak to § 87(2)(b). Sergeant Anderson responded, "Because you're a fucking criminal." Then Sergeant Anderson said, "Like father, like son." § 87(2)(b) told Sergeant Anderson that it was he who was the criminal. Sergeant Anderson left

Results of Investigation

§ 87(2)(b)

On May 15, 2009, § 87(2)(b) was interviewed at the CCRB (encl. 6A-C). § 87(2)(b) is a Hispanic female, 5'4" tall, age § 87(2)(b).

On April 24, 2009, at 6:00pm, § 87(2)(b) went to the 83rd Precinct with her husband, § 87(2)(b) to get information about her son, § 87(2)(b) who had been arrested a half an hour earlier for assault. § 87(2)(b) asked to speak to the sergeant who arrested § 87(2)(b). Sergeant Tyrell Anderson came out and told § 87(2)(b) that he could not see his son at this time. Sergeant Anderson kept directing his questions and answers towards § 87(2)(b)'s wife. § 87(2)(b) discussed the assault charges and wanted to know if they were going to be dropped. § 87(2)(b) who had a calm demeanor, asked Sergeant Anderson why he kept bypassing him to speak to § 87(2)(b). Sergeant Anderson

responded, "Because you're a fucking criminal." Sergeant Anderson left and § 87(2)(b) was released to § 87(2)(b).

Attempts to contact additional witnesses

§ 87(2)(b) and § 87(2)(b)

On May 16, 2009, § 87(2)(b) gave the CCRB § 87(2)(b)'s address and § 87(2)(b)'s address and phone number. Between June 3, 2009 and June 26, 2009, the CCRB sent § 87(2)(b) and § 87(2)(b) two letters. These letters were not returned. Between June 4, 2009 and June 26, 2009, the CCRB called § 87(2)(b) five times, but her phone was disconnected. The CCRB could not call § 87(2)(b) because § 87(2)(b) did not provide his phone number. The CCRB ran Lexis Nexis and 411 searches for alternative addresses and phone numbers; however, the results were negative.

Identification of Officers Interviewed

Sergeant Anderson identified himself by name to § 87(2)(b) at the precinct. Sergeant Anderson identified Officer Breton during his CCRB interview.

Subject Officer Interviews

Sergeant Tyrell Anderson

On June 16, 2009, Sergeant Tyrell Anderson was interviewed at the CCRB (encl. 7A-B). Sergeant Anderson is a black male, 5'11" tall, 190lbs, age 28 with black hair and brown eyes.

On April 24, 2009, Sergeant Tyrell Anderson worked from 4:00pm to 12:00am the following day, was assigned as the patrol supervisor, worked with Officer Ashley Breton, dressed in uniform and was assigned to RMP #1393. Sergeant Anderson did not have any entries in his memo book regarding the incident.

On April 24, 2009, at 5:30pm, on the corner of Knickerbocker Avenue and Dekalb Avenue in Brooklyn, Sergeant Tyrell Anderson and Officer Ashley Breton saw § 87(2)(b) assaulting § 87(2)(b). § 87(2)(b) was on top of § 87(2)(b) and punching him. Both men were on the ground. Sergeant Anderson and Officer Breton pulled § 87(2)(b) off of § 87(2)(b). § 87(2)(b) started flailing his arms. Sergeant Anderson and Officer Breton pushed § 87(2)(b) up against a fence in order to gain control over him. § 87(2)(b) resisted by pushing off the fence, so the officers continued to push § 87(2)(b) against the fence. It took a maximum of 30 seconds for the officers to gain control over § 87(2)(b). Officer Breton handcuffed § 87(2)(b). During the struggle, Sergeant Anderson never had to grab § 87(2)(b) in his wrist area.

After being placed in handcuffs, § 87(2)(b) resisted by refusing to move (his body went limp). Because § 87(2)(b) refused to walk forward, Sergeant Anderson and Officer Breton picked § 87(2)(b) up under the arms, near the armpits, and started to carry him to the car. Sergeant Anderson did not remember if he was on § 87(2)(b)'s left side or right side. § 87(2)(b) was still upset and screaming at § 87(2)(b). Sergeant Anderson thought § 87(2)(b) wanted to continue fighting § 87(2)(b). § 87(2)(b) started kicking his legs. Sergeant Anderson and Officer Breton continued to carry him by his armpits. As they started to approach the police vehicle, § 87(2)(b) stopped resisting and started walking. This struggle had lasted about 30 seconds. Sergeant Anderson did not notice any injuries on § 87(2)(b) but § 87(2)(b) had redness and swelling on his face.

At the precinct, Sergeant Anderson noticed that § 87(2)(b)'s wrist was red. Sergeant Anderson did not remember if it was the left or the right wrist. § 87(2)(b)'s wrist was not bleeding. Sergeant Anderson did not see blood on Officer Breton's handcuffs. Sergeant Anderson asked § 87(2)(b) if he needed medical attention and § 87(2)(b) said that he did not. Sergeant Anderson did not ask this question because he thought § 87(2)(b) needed medical attention, but because this is procedure. Sergeant Anderson stated that it is common that that redness appears on wrists when civilians resist arrest. One of § 87(2)(b)'s arms remained handcuffed at the precinct because he was a juvenile. Officer Breton handcuffed § 87(2)(b) to the desk. Sergeant Anderson did not know which arm was handcuffed and if it was the wrist that had been red. Sergeant Anderson was shown a picture of § 87(2)(b)'s right wrist, which had blood rings and a one-inch cut. Sergeant Anderson did not recall seeing § 87(2)(b)'s arm in this condition. § 87(2)(b) never complained about his handcuffs being too tight.

§ 87(2)(b)'s father, § 87(2)(b) came to the precinct with § 87(2)(b) § 87(2)(b)'s mother. Sergeant Anderson called the juvenile court desk, so that he could release § 87(2)(b) to § 87(2)(b). However, the juvenile court desk reported that the precinct could not release § 87(2)(b) to his father because of § 87(2)(b)'s past record. Sergeant Anderson told § 87(2)(b) that he was only able to release § 87(2)(b) to § 87(2)(b) for this reason. § 87(2)(b) was upset. Sergeant Anderson never called § 87(2)(b) a "criminal" or a "fucking criminal." Their interaction was brief.

Officer Ashley Breton

On June 26, 2009, Officer Ashley Breton was interviewed at the CCRB (encl. 8A-D). Officer Breton is a black male, 5'11" tall, 160 lbs, age § 87(2)(b) with black hair and brown eyes.

On April 24, 2009, Officer Ashley Breton, worked from 3:00pm to 11:35pm, was assigned as the sergeant's operator, worked with Sergeant Tyrell Anderson, dressed in uniform and was assigned to a marked RMP. Officer Breton's memo book states the following: At 5:25pm, pick up at Hard Street and Knickerbocker Avenue. At 5:33pm, one man arrested.

On April 24, 2009, at 5:30pm, at Knickerbocker Avenue and Dekalb Avenue in Brooklyn, Officer Ashley Breton and Sergeant Tyrell Anderson saw § 87(2)(b) and § 87(2)(b) fighting. § 87(2)(b) was holding § 87(2)(b) in a headlock. Officer Breton did not remember how § 87(2)(b) was reacting to being in a headlock (he did not know if § 87(2)(b) was biting § 87(2)(b) or hurting him in any way). Both men were up against a fence. Officer Breton did not recall if anything sharp was on the fence. Officer Breton did not notice any injuries on either man at this time. Officer Breton and Sergeant Anderson had to pull § 87(2)(b) off of § 87(2)(b) by grabbing his arms. § 87(2)(b) resisted by flailing his arms and moving his neck, but § 87(2)(b) never made contact with either officer. During the struggle, the officers never had to push § 87(2)(b) up against the gate. It took about 20 seconds to handcuff § 87(2)(b). Both Sergeant Anderson and Officer Breton handcuffed § 87(2)(b). When the officers were handcuffing § 87(2)(b), Officer Breton did not notice any cuts, scratches or blood on § 87(2)(b)'s wrist. After § 87(2)(b) was handcuffed, he did not continue to struggle. After being handcuffed, § 87(2)(b) did not try to get out of the handcuffs and the officers never had to grab him by his arms or wrists. All three walked back to the police vehicle.

At the precinct, Officer Breton took off one of § 87(2)(b)'s handcuffs and handcuffed his other hand to a chair, since § 87(2)(b) was a minor. Officer Breton did not remember which wrist he handcuffed to the chair. Officer Breton did not notice any redness, bleeding or any other indication of an injury on § 87(2)(b)'s wrist. The CCRB showed Officer Breton of § 87(2)(b)'s right wrist, which had a cut and rings of blood. Officer Breton did not remember § 87(2)(b)'s wrist being in this condition.

§ 87(2)(b)'s father, § 87(2)(b) arrived at the precinct and wanted to see his son. § 87(2)(b) asked Officer Breton what happened. Officer Breton told him what had happened and brought § 87(2)(b) to his son. Officer Breton did not see Sergeant Anderson speak to § 87(2)(b). Officer Breton never heard Sergeant Anderson call Officer Breton a "fucking criminal."

Medical Records

§ 87(2)(b) (encl. 9A-K)

§ 87(2)(b) was treated at the § 87(2)(b) on § 87(2)(b). The medical records indicate that § 87(2)(b) had multiple cuts and scrapes to his left face, neck and knee as well as a bite to his chest and a cut and abrasions to his right wrist. § 87(2)(b) stated that the bite was from § 87(2)(b) but the cuts to his the left side of his face and body were a result of police officers throwing him against a fence. § 87(2)(b) also explained that the lacerations on his right wrist were sustained from tight handcuffs. § 87(2)(b) was given antibiotics for the bite on his chest and received three stitches for the cut on his right wrist.

Police Documents

83rd Precinct Tour 2 Roll Call

The 83rd Precinct tour 2 roll call lists Sergeant Anderson assigned as the patrol supervisor and Officer Breton assigned as the sergeant's operator (encl. 11A-B).

Command Log (Encl. 16A-B)

The command log indicates that § 87(2)(b) arrived at the precinct at 5:45pm on April 24, 2009. He was released at 8:50pm. There were not any notations of his condition (encl. 12A).

Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Given that § 87(2)(b) is a minor, so any convictions would be sealed.

CCRB History

Sergeant Anderson

Sergeant Anderson, a member of the NYPD for five years, has no substantiated allegations on his history (encl. 2A).

Officer Ashley Breton

Officer Breton, a member of the NYPD for three years, has no substantiated allegations on his history (encl. 2B).

§ 87(2)(b)

§ 87(2)(b) has no current or past complaints at the CCRB (encl. 2C).

§ 87(2)(b)

§ 87(2)(b) has one other case open at the CCRB. In § 87(2)(b)

Conclusions and Recommendations

Subject Officer Identification

§ 87(2)(b) stated that the officers who used physical force against him were both black males. Sergeant Anderson identified himself by name to § 87(2)(b)'s father at the precinct. Sergeant Anderson identified Officer Breton during his CCRB interview. § 87(2)(g)

§ 87(2)(b) did not know which officer handcuffed him, but testified that both officers were touching him at the time of handcuff submission. Sergeant Anderson testified that Officer Breton handcuffed § 87(2)(b)

Officer Breton testified that both Officer Breton and Sergeant Anderson handcuffed § 87(2)(b) § 87(2)(g)

§ 87(2)(b) stated that the officer who called him a "fucking criminal" identified himself as Sergeant Anderson. § 87(2)(g)

Undisputed facts

It is undisputed that § 87(2)(b) did not request medical attention. It is undisputed that § 87(2)(b) was involved in a physical fight with § 87(2)(b) before interacting with Sergeant Anderson and Officer Breton. All parties agree that Sergeant Anderson and Officer Breton pushed § 87(2)(b) against a steel fence. All parties agree that Sergeant Anderson and Officer Breton never grabbed § 87(2)(b)'s wrists and § 87(2)(b) never tried to get out of his handcuffs. It is not in dispute that Sergeant Anderson spoke with § 87(2)(b) at the precinct.

Disputed facts

§ 87(2)(g)

Assessment of the evidence

All parties agree that Sergeant Anderson and Officer Breton saw § 87(2)(b) in a physical confrontation with § 87(2)(b) grabbed him, and pushed him against a steel fence. § 87(2)(b) testified that when he saw the officers, he stopped holding § 87(2)(b) and put his hands up. § 87(2)(g)

§ 87(2)(g) Sergeant Anderson and Officer Breton both testified that they had to pull § 87(2)(b) off of § 87(2)(b). Sergeant Anderson further explained that the officers pushed § 87(2)(b) against the fence to gain control over him and § 87(2)(b) resisted by pushing off the fence. § 87(2)(g)

§ 87(2)(b) d. § 87(2)(b) did admit that he called Sergeant Anderson an “asshole” and was “extremely upset.” § 87(2)(g) all parties agree that the officers’ struggle to gain control over § 87(2)(b) was brief (Sergeant Anderson and Officer Breton testified that the struggle lasted 30 seconds and § 87(2)(b) testified that the interaction lasted two minutes). All parties agree that the struggle ended with § 87(2)(b) being handcuffed, § 87(2)(g)

§ 87(2)(b) The NYPD Patrol Guide, #203-11, states that officers should use only the amount of force necessary to overcome resistance. § 87(2)(g)

§ 87(2)(b) alleged that his handcuffs were so tight that they caused a one-inch cut and lacerations to his right wrist. § 87(2)(b) was treated at § 87(2)(b) about six hours after his interaction with Sergeant Anderson and Officer Breton. § 87(2)(b) s medical records indicate that he received three stitches to his right wrist. § 87(2)(g) y. All parties testified that § 87(2)(b) did not have any injuries on his wrists before being handcuffed. In addition, all parties agree that the officers never grabbed § 87(2)(b) by his wrists, or by his handcuffs, and § 87(2)(b) never tried to take his handcuffs off. All parties agree that § 87(2)(b) was pushed up against the fence on his left side. § 87(2)(b) t. § 87(2)(b) testified that the handcuffs were pinching the top, right side of his wrist and that his wrist started bleeding at the precinct. Sergeant Anderson, however, testified that he only noticed redness on § 87(2)(b) s right wrist. Officer Breton testified that he did not notice any kind of injury on § 87(2)(b) s wrist.

§ 87(2)(g) § 87(2)(b) testified that Officer Breton looked surprised when he saw blood on § 87(2)(b) s wrist and on his handcuffs. § 87(2)(g) § 87(2)(b) testified that he did not complain about the handcuffs being too tight and did not request medical attention. § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) testified that Sergeant Anderson called § 87(2)(b) a “fucking criminal,” but Sergeant Anderson did not admit to this. § 87(2)(g)

Allegation A: Sergeant Tyrell Anderson used physical force against § 87(2)(b)

Allegation B: Officer Ashley Breton used physical force against § 87(2)(b)

As discussed above, Sergeant Anderson and § 87(2)(b) testified that Sergeant Anderson and Officer Breton pushed § 87(2)(b) against the fence. All parties testified that the struggle was brief – a maximum of two minutes, and that the struggle at the fence stopped after handcuff submission. § 87(2)(g)

Allegation C: Sergeant Tyrell Anderson tightly handcuffed § 87(2)(b)

Allegation D: Officer Ashley Breton tightly handcuffed § 87(2)(b)

As discussed above, all parties agree that Sergeant Anderson and Officer Breton never grabbed § 87(2)(b) by his wrists or his handcuffs, and § 87(2)(b) never tried to take his handcuffs off. § 87(2)(b) testified that

the handcuffs were pinching him, which caused a cut on his wrist. Sergeant Anderson and Officer Breton both testified that they did not notice any blood or a cut on § 87(2)(b)'s wrist. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation E: Sergeant Tyrell Anderson spoke obscenely towards § 87(2)(b)

As discussed above, § 87(2)(b) and § 87(2)(b) testified that Sergeant Anderson called § 87(2)(b) a “fucking criminal,” but Sergeant Anderson did not admit to this. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Investigator: Maryann Wong

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: